

Editor's note: Reconsideration denied by Order dated April 11, 1989

SALLY ANN LANA HENDERSON
DONALD JAMES HENDERSON

IBLA 87-666, IBLA 87-667

Decided February 14, 1989

Appeal from decisions of the Boise, Idaho, District Office, Bureau of Land Management, rejecting desert land entry applications I-6508 and I-6507.

Affirmed.

1. Desert Land Entry: Applications

A decision to reject a desert land entry application because the lands identified in the application cannot be farmed as an economically feasible operating unit will be affirmed where the record supports such a conclusion and appellant has failed to provide evidence which would establish error in the BLM decision.

APPEARANCES: Sally Ann Lana Henderson, Donald James Henderson, pro sese.

OPINION BY ADMINISTRATIVE JUDGE GRANT

Sally Ann Lana Henderson and Donald James Henderson have appealed from separate decisions of the Boise, Idaho, District Office, Bureau of Land Management (BLM), dated June 29 and June 26, 1987, rejecting their respective desert land entry applications, I-6508 and I-6507. The rejections were based on determinations, in accordance with 43 CFR 2520.0-8(d)(3), that it would be impractical to farm the lands sought in each entry as economically feasible operating units.

On January 17, 1973, Sally Ann Lana Henderson filed desert land entry application I-6508, for 319.61 acres of public land situated in sec. 30, T. 7 S., R. 6 E., and in sec. 25, T. 7 S., R. 5 E., Boise Meridian, Owyhee County, Idaho. In her application, she proposed to cultivate alfalfa on the 304 irrigable acres, using a sprinkler system with water pumped from an underground well to be drilled on the land. On May 18, 1981, she submitted a revised plan of development for her application, proposing to devote 152 acres to grain for gasohol, fuel, and feed, and 152 acres to alfalfa for hay. She projected a net annual income of \$72,200. On May 26, 1982, the land was classified as suitable for agricultural development under the Desert Land Entry Act of 1877, as amended, 43 U.S.C. || 321-339 (1982).

Similarly, on January 17, 1973, Donald James Henderson filed desert land entry application I-6507, for 320 acres of public land located in secs. 20, 29, and 30, T. 7 S., R. 6 E., Boise Meridian, Owyhee County, Idaho. He proposed to grow 304 acres of alfalfa and to irrigate using a sprinkler system with water pumped from a well drilled on the land. In May 1981 he revised his plan of development, proposing to devote 152 acres to grain for feed and fuel, and 152 acres to alfalfa for hay. He projected a net annual income of \$72,200. In October 1981, Henderson amended his application to delete the land in sec. 20 and to add additional lands in sec. 29. The lands applied for were classified as suitable for agricultural development under the Desert Land Entry Act on May 26, 1982.

Thereafter, BLM undertook an economic analysis to determine the practicability of farming the lands described in appellants' applications. BLM sought to determine if the lands applied for constituted economically feasible operating units in accordance with 43 CFR 2520.0-8(d)(3). Each application was analyzed separately. The analysis consisted of running figures for projected costs, revenues, and other variables for a standardized crop distribution through a computer model developed by BLM and the Idaho Department of Water Resources, resulting in a calculation of total net revenue for each operating unit. In each case, the total net revenue was a negative figure.

In its decisions rejecting appellants' applications, BLM noted that the factors to be considered in determining whether a desert land entry application can be allowed include the topography and character of the lands sought, the private lands farmed by the applicant, and the farming systems and practices common to the locality. The decisions stated that BLM used a computer model to determine the practicability of farming the lands as an economically feasible operating unit, and that a standard crop rotation was used in the model, although information submitted by the applicant was used where appropriate. Based on the analysis, BLM concluded that desert land entry application I-6508 would have annual operating costs of \$207,679 and total revenues of \$152,232, for an annual loss of \$55,447, and that application I-6507 would have annual operating costs of \$224,030 and total revenues of \$139,111, for a net annual loss of \$84,919. Therefore BLM rejected the applications because the lands sought could not be farmed as economically feasible operating units.

On appeal, appellants argue that the BLM economic analysis is not applicable to their entries. They allege that Donald Henderson is in the irrigation equipment business and, as a result, has access to irrigation equipment and design at a much lower cost than listed. They contend that as husband and wife they intend to operate their properties jointly and, hence, their equipment costs will be further reduced. Finally, appellants assert that investment funds are available to them so interest on borrowed money will not be a cost to them.

[1] Section 1 of the Desert Land Entry Act of 1877, as amended, 43 U.S.C. | 321 (1982), provides for the patenting of tracts of desert land not exceeding 320 acres to persons who make satisfactory proof of reclamation of the land and pay the required purchase price. The statute

states that the entered tracts of land shall be "managed satisfactorily as an economic unit." 43 U.S.C. § 321 (1982). Accordingly, the applicable regulation, 43 CFR 2520.0-8(d)(3), provides that, in determining whether to allow a desert land entry, the authorized BLM officer will take into account various factors, including the "practicability of farming the lands as an economically feasible operating unit."

The question of economic feasibility, according to the BLM Manual at 2520.0-6(A)(4) (Oct. 21, 1974), is whether the land

can be developed into a profitable operation on a "permanent" basis. The value of the increased production of a given tract of land must be sufficient to provide a profit after all costs have been deducted. This profit must be large enough to ensure the expectation of continued cultivation. * * * The concern is with the stability of the farming operation.

Where the evidence has established that the lands sought cannot be farmed as an "economically feasible operating unit," we have affirmed BLM's rejection of a desert land entry application based on that rationale. See Roger K. Ogden, 77 IBLA 4, 90 I.D. 481 (1983).

The Board has affirmed decisions based on the use of computer analysis as an aid in projecting economic viability, but we have stated that BLM must also "ensure that its decision is supported by a rational basis and that such basis is stated in the written decision and demonstrated in the record." Roger K. Ogden, *supra* at 7-8, 90 I.D. at 483-84; see David V. Udy, 81 IBLA 58, 60-61 (1984). In the present cases, the BLM decisions have given both the figures for, and the sources of, critical data used in the computer analysis. The BLM decision indicates that the source of the "standard crop rotation" for which the projections of revenues and expenses were calculated on the computer model was the University of Idaho and local extension agents. Further specifics regarding the data on which the economic feasibility has been analyzed is shown on the data worksheets appearing in the files. A printout of the projected revenue and expenses also appears in each case file. Based on the analysis in the record, it appears that relevant factors have been considered and a rational basis has been presented for rejection of appellants' applications as uneconomic.

On appeal, appellants have the burden of demonstrating that BLM's decision is erroneous. Howard J. Hunt, 80 IBLA 396 (1984). In their statements of reasons, appellants have made conclusory assertions with no supporting specifics. Although appellants state that they can acquire the necessary irrigation equipment at less than the cost projected by BLM, they offer no estimate of their specific costs and no evidence supporting a lower cost. Furthermore, the irrigation system costs used by BLM in its economic analyses are lower than those estimated by appellants in their revised plans of development. ^{1/} Although such a variance is not necessarily fatal to

^{1/} BLM projected costs of \$44,785 and \$50,790 for the irrigation systems for I-6508 and I-6507, respectively. Appellants estimated that those costs would be \$64,000 for each application.

appellants' applications, it is symptomatic of the lack of specific information necessary on appeal to establish error in the BLM decision. Appellants also argue that, since they plan to farm the lands as one farm and not two separate units, their costs will be reduced. Once again, they fail to present any evidence as to the amount of the savings such a joint operation could produce. Further, although they now claim that they will incur no interest expenses, we note that in their applications, they each projected annual interest costs of \$7,000.

Finally, we note appellants' observation in their statement of reasons for appeal that they "desire * * * to prove on our entries, gain title to the land, then enter into family farming when farm commodity prices vs. costs improve. We feel this time is approaching within the next 5 to 8 years." Although appellants' optimism is laudable, it does not establish error in the BLM decisions under appeal. Under these circumstances, appellants have failed to demonstrate that BLM's decisions rejecting their applications should be overturned.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are affirmed.

C. Randall Grant, Jr.
Administrative Judge

I concur:

David L. Hughes
Administrative Judge